

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

EDITORIAL NOTE: For FEDERAL REGISTER citations to regulations for previous program years not included in this volume, see the List of CFR Sections Affected in the Finding Aids section of this volume.

PART 1410—1991–2002 CONSERVATION RESERVE PROGRAM

SOURCE: 56 FR 15985, Apr. 19, 1991, unless otherwise noted.

Subpart A—General Provisions

Sec.

- 1410.1 Applicability.
- 1410.2 Administration.
- 1410.3 Definitions.
- 1410.4 Maximum county acreage.
- 1410.5 Performance based upon advice or action of the Department.
- 1410.6 Access to land under contract.
- 1410.7 Division of program payments and provisions relating to tenants and sharecroppers.
- 1410.8 Payments not subject to claims.
- 1410.9 Assignments.
- 1410.10 Appeals.
- 1410.11 Scheme and device.
- 1410.12 Filing of false claims.
- 1410.13 Miscellaneous.

Subpart B—Conservation Reserve Program

- 1410.101 General description.
- 1410.102 Eligible persons.
- 1410.103 Eligible land.
- 1410.104 Duration of contracts.
- 1410.105 Conservation priority areas.
- 1410.106 Alley-cropping.
- 1410.107 Conversion to trees.
- 1410.108 Restoration of wetlands.
- 1410.109 Obligations of participant.
- 1410.110 Obligations of the Commodity Credit Corporation.
- 1410.111 Conservation plan.
- 1410.112 Eligible practices.
- 1410.113 Signup.
- 1410.114 Acceptability of offers.
- 1410.115 CRP contract.
- 1410.116 Contract modifications.
- 1410.117 Extended base protection.
- 1410.118 Cost-share payments.
- 1410.119 Levels and rates for cost-share payments.
- 1410.120 Annual rental payments.
- 1410.121 Method of payment.
- 1410.122 State enhancement program payments.
- 1410.123 Transfer of land.
- 1410.124 Violations.
- 1410.125 Executed CRP contract not in conformity with regulations.

AUTHORITY: 15 U.S.C. 714b and 714c; 16 U.S.C. 3831–3847.

Subpart A—General Provisions

§ 1410.1 Applicability.

The regulations in this part govern operation of the Environmental Conservation Acreage Reserve Program (ECARP) established by title XII of the Food Security Act of 1985 as amended. The ECARP shall consist of the Conservation Reserve Program (CRP) covered under subpart B of this part and the Wetlands Reserve Program (WRP) covered under subpart C of this part. With respect to the CRP, subpart B shall, unless otherwise provided for, only be applicable for contracts approved and bids for participation offered for enrollment periods after November 28, 1990. With respect to all other CRP contracts approved, and bids for participation offered, the provisions of part 704 of this title shall be applicable.

[56 FR 15985, Apr. 19, 1991, as amended at 61 FR 43945, Aug. 27, 1996]

§ 1410.2 Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the Executive Vice President, Commodity Credit Corporation (CCC), and the Administrator, Farm Service Agency (FSA), through the Deputy Administrator for Farm Programs, FSA. In the field, the regulations in this part will be administered by the State and county FSA committees ("State committees" and "county committees," respectively).

(b) State executive directors, county executive directors and State and county committees do not have authority to modify or waive any of the provisions of this part.

(c) The State committee may take any action authorized or required by this part to be taken by the county

Commodity Credit Corporation, USDA

§ 1410.3

committee which has not been taken by such committee. The State committee may also:

(1) Correct or require a county committee to correct any action taken by such county committee which is not in accordance with this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) No delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, and the Administrator, FSA, or a designee, from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee.

(e) Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, without it program benefits will not be provided.

(f)(1) The erosion index (EI), suitability of land for permanent vegetative or water cover, factors for determining the likelihood of improved water quality, and adequacy of the planned practice to achieve desired objectives, shall be determined by the Natural Resource Conservation Service (NRCS) in accordance with the local field office technical guide or other guidelines deemed appropriate by the NRCS, except that no such determination by the NRCS shall compel CCC to execute a contract which CCC does not believe will serve the purposes of the program established by this part.

(2) CCC shall consult with the NRCS for such other technical assistance in the implementation of the ECARP as is determined by CCC to be necessary.

(g) State FSA committees, with NRCS, may develop a State ranking process to evaluate acreage based on State specific goals and objectives. Such STC's may choose between developing a State ranking process or utilizing a national ranking process. States' ranking processes shall be developed based on recommendations from State Technical committees, follow national guidelines, and be approved by the Deputy Administrator."

(h) CCC shall consult with the Forest Service (FS) or the State Forestry Agency for such assistance as is determined by CCC to be necessary for de-

veloping and implementing conservation plans which include tree planting as the appropriate practice.

(i) CCC may consult with the Cooperative State Research, Education, and Extension Service (CSREES) to coordinate the related information and education program as deemed appropriate to implement the CRP.

[56 FR 15985, Apr. 19, 1991, as amended at 61 FR 43945, Aug. 27, 1996]

§ 1410.3 Definitions.

(a) The terms defined in part 719 of this title shall be applicable to this part and all documents issued in accordance with this part, except as otherwise provided in this section.

(b) The following definitions shall be applicable to this part:

Agricultural commodity means any crop planted and produced by annual tilling of the soil or on an annual basis by one trip planters or sugar cane planted or produced in a state or alfalfa and other multiyear grasses and legumes in rotation as approved by the Secretary. For purposes of determining crop history, as relevant to eligibility to enroll land in the program, land shall be considered planted to an agricultural commodity during a crop year if, as determined by CCC, an action of the Secretary prevented land from being planted to the commodity during the crop year;

Alley-cropping means the practice of planting rows of trees surrounded by a strip of vegetative cover, alternated with wider strips of agricultural commodities planted in accordance with a conservation plan of operation approved by the local Conservation District and CCC;

Annual rental payment means, unless the context indicates otherwise, the annual payment specified in the CRP contract which, subject to the availability of funds, is made to a participant to compensate such participant for placing eligible land in the CRP;

Applicant means a person who submits an offer to CCC to enter into a CRP contract;

Bid means, unless the context indicates otherwise, the per acre rental payment requested by the owner or operator in such owner's or operator's offer to participate in the CRP;

Commodity Credit Corporation (CCC) shall refer to the corporation of that name which is an agency of the United States government maintained within the U.S. Department of Agriculture;

Conservation District (CD) means a subdivision of a State organized pursuant to an applicable State Conservation District Law or in instances where a conservation district does not exist, the State Conservationist of the Soil Conservation Service;

Conservation plan means the document describing and scheduling the practices which must be established and maintained on land placed in the CRP in order to achieve the desired environmental benefits on such land. The conservation plan shall include requirements such as the approved vegetative cover, silvicultural treatments, weed, insect, and pest control necessary for the establishment and maintenance of vegetative cover and any other information required by the Secretary;

Contour grass strip means a vegetation area that follows the contour of the land, whose width is determined by the NRCS local office Field Office Technical Guide and whose designation is included as a contour grass strip by a conservation plan required under this part;

Cost-share payment means the payment made by CCC to assist program participants in establishing the practices required in a contract, except where, in addition, a cost-share payment for maintenance is specifically authorized in this part in which case the term shall also include a maintenance cost-share payment;

CRP contract means the program contract including the applicable contract appendix, conservation plan and the terms of any required easement, if applicable, entered into between CCC and the participant. Such contract shall set forth the terms and conditions for participation in the CRP pursuant to this part;

Deputy Administrator means the FSA Deputy Administrator for State and County Operations;

Designated 319 areas means areas approved by States under the Clean Water Act, as amended, administered by EPA and designated by the Sec-

retary of Agriculture as eligible for entry into the CRP;

Erosion index means the factor used to determine the erodibility of a soil by dividing the potential average annual rate of erosion for each soil by the predetermined soil loss tolerance (T) value for the soil;

Field means a part of a farm which is separated from the balance of the farm by permanent boundaries such as fences, roads, permanent waterways, woodlands, other similar features, or croplines, except that croplines will be considered to separate fields only in cases where the predominantly eligible cropland and farming practices divide the land into manageable units and it is likely, as determined by CCC, that such cropline is not subject to change during the duration of the contract;

Field windbreak, shelterbelt, and living snowfence mean a vegetative barrier with a linear configuration composed of trees or shrubs which are designated as such practices in a conservation plan and which are planted for the purpose of reducing wind erosion, snow control, and energy conservation;

Filterstrip means a strip or area of vegetation of a width determined appropriate for the purpose by the NRCS local office Field Office Technical Guide;

FSA means the Farm Service Agency of the United States Department of Agriculture;

Highly erodible land means land which is classified by NRCS as:

(i) Being predominantly Land Capability Classes II, III, IV, and V with:

(A) An average annual erosion rate of at least 2T or;

(B) A serious gully erosion problem as determined by the Deputy Administrator; or

(ii) Being predominantly Land Capability Classes VI, VII, or VIII; or

(iii) If trees are to be planted under the conservation plan, eroding at the rate of at least 2T; or

(iv) Having:

(A) An erodibility index equal to or greater than 8 for either wind or water erosion, and

(B) An erosion rate greater than T;

Commodity Credit Corporation, USDA

§ 1410.6

Local FSA office means the county office of the Farm Service Agency serving the county or combination of counties in the area in which the landowner's farm or ranch is located;

Manageable unit means a part of a field that could be farmed in a normal manner as a self-contained unit;

NRCS means the Natural Resources Conservation Service of the United States Department of Agriculture;

Participant means an owner or operator or tenant who has entered into a contract;

Permanent vegetative cover means perennial stands of approved combinations of certain grasses, legumes, forbs, and shrubs with a life span of 10 or more years, or trees;

Practice means a conservation or water quality measure agreed to in the conservation plan to accomplish the desired program objectives.

Predominantly highly erodible field means:

(i) Except as provided in paragraph (ii) of this definition, a field in which at least 66⅔ percent of the land in such field is highly erodible;

(ii) A field on which the participant agrees to plant trees, as determined necessary by the Deputy Administrator to achieve overall program goals, which is at least 33⅓ percent highly erodible land.

Soil Loss Tolerance (T) means the maximum average annual soil loss specified as a tolerance level for a soil in the field office technical guide;

Technical assistance means the assistance provided in connection with the ECARP to owners or operators by a representative of the Department in classifying cropland, developing conservation plans, determining the eligibility of land, and implementing and certifying practices;

Useful life easement means a property interest acquired by CCC pursuant to this part in connection with a CRP contract which requires the maintenance of a practice for the useful life of such practice which period shall be specified by CCC to be 15 or 30 years depending on the practice specified. Practices requiring such easement shall be determined by the Deputy Administrator and shall include practices such as: living snow fences, windbreaks,

shelterbelts, permanent wildlife habitat, wildlife corridors and filterstrips devoted to trees and shrubs. All such easements as may be required shall be in favor of the United States or CCC. The granting of such an easement shall be considered to meet the obligation of the contract only if the easement is superior to the rights of all other persons;

Water cover means flooding of land by water in order to develop or restore shallow water areas for wildlife enhancement;

Wellhead means the actual location of a well, as determined by CCC, for water being drawn for public use from the ground.

[56 FR 15985, Apr. 19, 1991, as amended at 61 FR 43945, Aug. 27, 1996]

§ 1410.4 Maximum county acreage.

Except for areas devoted to windbreaks or shelterbelts after November 28, 1990, the maximum acreage which may be placed in the ECARP may not exceed 25 percent of the total cropland in the county of which no more than 10 percent of the cropland in the county may be subject to an easement, unless CCC determines that such action would not adversely affect the local economy of the county. This restriction on participation shall be in addition to any other restriction imposed by law.

§ 1410.5 Performance based upon advice or action of the Department.

The provisions of part 790 of this title, as amended, relating to performance based upon the action or advice of a representative of the Department shall be applicable to this part.

§ 1410.6 Access to land under contract.

Any representative of the Department, or designee thereof, shall have the right of access to:

(a) land which is the subject of an application for a program under this part,

(b) or land which is under contract or otherwise subject to this part and shall have the right to examine records, with respect to such land for the purpose of determining land classification and erosion rates and for the purpose of determining whether there is compliance

with the terms and conditions of the ECARP.

§ 1410.7 Division of program payments and provisions relating to tenants and sharecroppers.

Payments received under this part shall be divided in the manner specified in the applicable contract or agreement and CCC shall ensure that producers who would have shared in the risk of producing crops on land subject to such contract or agreement receive treatment deemed to be equitable in accordance with § 1413.150 of this chapter.

§ 1410.8 Payments not subject to claims.

Subject to part 1403 of this chapter, any cost-share or annual payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any creditor, except agencies of the U.S. Government.

§ 1410.9 Assignments.

Any participant who may be entitled to any cash payment under this program may assign the right to receive such cash payments, in whole or in part, as provided in part 1404 of this chapter, except that assignments may also be made to secure or pay pre-existing indebtedness.

§ 1410.10 Appeals.

(a) Except as provided in paragraph (b) of this section, a participant in a program under this part may obtain a review of any administrative determination rendered under this program in accordance with the administrative appeal regulations at part 780 of this title.

(b) Determinations concerning land classification, erosion rates, or water quality ratings may be reviewed in accordance with procedures established under part 614 of this title or otherwise established by SCS.

§ 1410.11 Scheme and device.

(a) If it is determined by CCC that a participant in a program under this part has employed a scheme or device to defeat the purposes of this part, any

part of any program payments otherwise due or paid such participant during the applicable period may be withheld or required to be refunded with interest thereon as determined appropriate by CCC.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person of cost-share assistance or land rental payments, and obtaining a payment that otherwise would not be payable.

(c) A new owner or operator or tenant of land subject to this part who succeeds to the responsibilities under this part shall report in writing to CCC any interest of any kind in the land subject to this part that is retained by a previous participant. Such interest shall include a present, future or conditional interest, reversionary interest or any option, future or present, with respect to such land and any interest of any lender in such land where the lender has, will, or can obtain, a right of occupancy to such land or an interest in the equity in such land other than an interest in the appreciation in the value of such land occurring after the loan was made. A failure of full disclosure will be considered a scheme or device under this section.

§ 1410.12 Filing of false claims.

If it is determined by CCC that any participant has knowingly supplied false information or has knowingly filed a false claim, such participant shall be ineligible for payments under this part with respect to the crop year in which the false information or claim was filed. False information or false claims include claims for payment for practices which do not meet the specifications of the applicable conservation plan. Any amounts paid under these circumstances shall be refunded, together with interest as determined by CCC, and any amounts otherwise due such participant shall be withheld.

§ 1410.13 Miscellaneous.

(a) Except as otherwise provided in this part in the case of death, incompetency, or disappearance of any participant, any payment due under this part shall be paid to the participant's

successor in accordance with the provisions of part 707 of this title.

(b) Unless otherwise specified in this part, payments under this part shall be subject to the requirements of part 12 of this title concerning highly-erodible land and wetland conservation and payments that otherwise could be made under this part may be withheld to the extent provided for in part 12 of this title.

(c) Any remedies permitted CCC under this part shall be in addition to any other remedy, including, but not limited to criminal remedies, or actions for damages in favor of CCC, or the United States as may be permitted by law.

(d) Cropland acreage established and maintained in vegetative cover under CRP, including approved volunteer cover, shall retain its cropland classification for the period of time that the cover is maintained or as otherwise established by the Deputy Administrator.

[56 FR 15985, Apr. 19, 1991, as amended at 58 FR 4064, Jan. 13, 1993; 61 FR 43946, Aug. 27, 1996]

Subpart B—Conservation Reserve Program

§ 1410.101 General description.

(a) Under the CRP, the Commodity Credit Corporation (CCC) will enter into contracts with eligible producers to convert eligible land to a conserving use for a minimum of ten years in return for annual rental payments and cost-share assistance.

(b) Except as otherwise provided, a participant may, in addition to any payment under this subpart, receive cost share assistance, rental payments, or tax benefits from a State or subdivision of such State in return for enrolling lands in CRP.

§ 1410.102 Eligible persons.

In order to be eligible to enter into a CRP contract in accordance with this part, a person must be an owner or operator or tenant of eligible cropland and—

(a) If an operator of eligible cropland, must have operated such cropland for at least 1 year prior to the close of the

applicable signup period and must provide satisfactory evidence that such person will be in control of such cropland for the full term of the CRP contract period; or

(b) If an owner of eligible cropland, must have owned such cropland for at least 1 year prior to the close of the applicable signup period, unless:

(1) The new owner acquired such cropland by will or succession as a result of the death of the previous owner;

(2) The only ownership change in the three year period occurred due to foreclosure on the land and the owner of the land, immediately before the foreclosure, exercises a timely right of redemption from the mortgage holder in accordance with state law;

(3) As determined by the Deputy Administrator, the circumstances of the requisition are such as present adequate assurances that the new owner of such cropland did not acquire such cropland for the purpose of placing it in the CRP; or

(c) If a tenant, the tenant is a participant with an eligible owner or operator.

[56 FR 15985, Apr. 19, 1991, as amended at 61 FR 43946, Aug. 27, 1996]

§ 1410.103 Eligible land.

(a) Except as otherwise provided in this section, in order to be eligible to be placed in the CRP, land must—

(1) Have been annually planted or considered planted to an agricultural commodity in 2 of the 5 crop years, from 1992 through 1996;

(2) Be physically possible to be planted in a normal manner, at the time of enrollment, to an agricultural commodity;

(3) Be a predominantly highly erodible field; and

(4) If in a redefined field, be a manageable unit which meets the minimum acreage requirements, as determined by the Deputy Administrator, for the county. This requirement shall not apply for areas, as specified in the contract, to be used for permanent wildlife habitat, filterstrips, contour grass strips, sod waterways, field windbreaks, shelterbelts, living snowfences, or vegetation on salinity producing areas.

(b) A field or portion of a field determined to be suitable for use as a filter strip may be eligible to be placed in the CRP, even if it does not meet the requirement of paragraph (a)(3) of this section. The participant must agree to grow permanent grass, forbs, shrubs or trees on such field or portion of such field. A field or portion of a field may be considered to be suitable for use as a filter strip only if it—

(1) Otherwise meets the requirements of paragraph (a) of this section;

(2) Is located adjacent to a stream having perennial flow, other waterbody of a permanent nature (such as a lake, pond, wetlands and sinkhole), or seasonal stream, or wetlands excluding such areas as gullies or sod waterways;

(3) Is capable, when permanent grass, forbs, shrubs or trees are grown, of substantially reducing sediment that otherwise would be delivered to the adjacent stream or waterbody; and

(4) Is 1.0 to 1.5 chain lengths (66 to 99 feet) in width. Such width may be adjusted, to the extent necessary to meet NRCS Field Office Technical Guide criteria, to accomplish the desired environmental effect.

(c) A field which has evidence of scour erosion caused by out-of-bank flows of water, as determined by NRCS, may be eligible to be placed in the CRP, even if the field does not meet the requirement of paragraph (a)(3) of this section.

(1) In order for land to be eligible for enrollment in the CRP under paragraph (c) of this section, such land must otherwise meet the requirements of paragraph (a) of this section.

(2) Such land must in addition:

(i) Be expected to flood a minimum of once every 10 years; and

(ii) Have evidence of damage as a result of such scour erosion.

(3) To the extent practicable, only cropland areas of a field may be enrolled in the CRP under this paragraph. The entire cropland area of an eligible field may be enrolled if:

(i) The size of the field is 9 acres or less; or,

(ii) More than one third of the cropland in the field is land which lies between the water source and the inland limit of the scour erosion.

(4) If the full field is not eligible for enrollment under this paragraph that portion of the field eligible for enrollment shall be that portion of the cropland between the water body and the inland limit of the scour erosion together with, as determined by the Deputy Administrator, additional areas which would otherwise be unmanageable and would be isolated by the eligible areas.

(5) Cropland approved for enrollment under this paragraph shall be planted to an appropriate tree species approved by NRCS, unless tree planting is determined to be inappropriate by NRCS, in which case the eligible cropland shall be devoted to another acceptable permanent vegetative cover approved by NRCS and the Deputy Administrator.

(d) Notwithstanding paragraph (a)(3) of this section, the following land may also, as determined by the Deputy Administrator, be considered eligible for the CRP under the provisions of this subpart, provided that all other provisions of paragraph (a) of this section are met.

(1) Land contributing to the degradation of water quality or posing an on-site or off-site environmental threat to water quality if such land remains in production so long as water quality objectives, with respect to such land, cannot be obtained under the Agricultural Water Quality Incentives Program (AWQIP).

(2) Land devoted to living snowfences, windbreaks, wildlife habitat, shelterbelts or filterstrips with trees or shrubs;

(3) Land devoted to newly created permanent grass waterways or contour grass sod strips created after November 28, 1990, which are established and maintained according to an approved conservation plan;

(4) Non-irrigated or irrigated cropland which produce, as determined by the Deputy Administrator, saline seeps or which are functionally related to such saline seeps, or where a rising water table contributes to increased levels of salinity at or near the ground surface.

(e) Federal lands, lands acquired by an agency of the Federal Government, or by a quasi-federal entity are ineligible for the CRP.

(f) Land otherwise eligible for the CRP shall not be eligible if the land is:

(1) Subject to a deed or other restriction prohibiting the production of agricultural commodities, unless otherwise approved by the Deputy Administrator; or

(2) Farmed wetlands which may be eligible for the Wetlands Reserve Program (WRP) under 7 CFR part 620, except this restriction shall not apply to small farmed wetlands contained in, and are a part of, fields that are otherwise eligible for CRP as determined by CCC.

[56 FR 15985, Apr. 19, 1991, as amended at 58 FR 4064, Jan. 13, 1993; 61 FR 43946, Aug. 27, 1996]

§ 1410.104 Duration of contracts.

(a) Except as provided in paragraph (b) of this section, contracts under this subpart shall be 10 years in duration.

(b) In the case of land devoted to hardwood trees, shelterbelts, windbreaks, or wildlife corridors under the original terms of a contract subject to this subpart or for land devoted to such use under a contract modified under § 1410.107, the participant may specify the duration of the contract. Such contracts must be at least 10 years and no more than a total of 15 years in length.

§ 1410.105 Conservation priority areas.

(a) The watershed areas of the Chesapeake Bay region, Great Lakes region, and Long Island Sound region shall be considered as conservation priority areas for CRP purposes. The Deputy Administrator may designate other areas as conservation priority areas.

(b) State water quality agencies may submit an application for designation of other areas to the Deputy Administrator through the State ASC Committee.

(c) Watersheds shall be eligible for designation as a priority area only if the watershed has actual significant adverse water quality or habitat impacts related to activities of agricultural production.

(d) Conservation priority area designations expire after 5 years unless redesignated, except they may be withdrawn:

(1) Upon application by the appropriate State water quality agency; or

(2) By the Secretary, if such areas no longer contain actual and significant adverse water quality or habitat impacts in association with agricultural production activities.

(e) In those areas designated as priority areas, under this section, special emphasis will be placed to maximize water quality and habitat benefits of the implementation of the CRP by promoting a significant level of enrollment of lands within such designated watersheds in the program as determined, by the Deputy Administrator, to be appropriate and consistent with the purposes of the program.

§ 1410.106 Alley-cropping.

(a) Alley-cropping on CRP land may be permitted by CCC if:

(1) The land is planted to, or converted to, hardwood trees in accordance with § 1410.107;

(2) Agricultural commodities are planted in accordance with an approved conservation plan in close proximity to such hardwood trees;

(3) The owner and operator of such land, agree to implement appropriate conservation measures on such land.

(b) CCC may solicit bids for alley-cropping permission for CRP land. Annual rental payments for the term of any contract modified under this section shall be reduced by at least 50 percent of the original amount of the total rental payment in the original contract and total annual rental payments over the term of any contract modified under this section shall not exceed the total annual rental payments specified in the original contract.

(c) The actual reduction in rental payment will be determined by CCC, based upon criteria, such as percentage of the total acreage that will be available for cropping and projected returns to the producer from such cropping.

(d) The area available for cropping will be chosen according to established technical guidelines and will be farmed in accordance with an approved conservation plan so as to minimize erosion and degradation of water quality during those years when the areas are devoted to an agricultural commodity.

§ 1410.107 Conversion to trees.

An owner or operator who has entered into a contract under part 704 of this title as of November 28, 1990, may elect to convert areas of highly erodible cropland, subject to such contract, which are devoted to permanent cover, from such cover to hardwood trees (including alley cropping where permitted by CCC), windbreaks, shelterbelts, or wildlife corridors.

(a) With respect to any contract modified under this section, the participant may elect to extend such contract to a term not to exceed 15 years.

(b) With respect to any contract modified under this section in which such areas are converted to windbreaks, shelterbelts, or wildlife corridors, the owner of such land must provide a useful life easement on such land to CCC for the useful life of such plantings.

(c) CCC shall, as it determines appropriate and in the public interest, pay up to 50 percent of the eligible cost of establishing new conservation measures authorized under this section except that the total cost share paid with respect to such contract, including a cost share paid when the original cover was established, may not exceed the amount which CCC would have paid had such land been originally devoted to such new conservation measures.

(d) With respect to any contract modified under this section, the participant must participate in the Forest Stewardship Program.

§ 1410.108 Restoration of wetlands.

An owner or operator who has entered into a contract under part 704 of this title as of November 28, 1990, on land that is suitable for restoration to wetlands or that was restored to wetlands while under such contract, may, if approved by CCC, elect to transfer such eligible acres subject to such contract, which are devoted to an approved cover, from such contract to the wetland reserve program; provided that such offer for transfer occurs during the first or second available signup for intention period under the WRP for the State and agreed to by FSA. Transfers on offers submitted after the second available WRP signup period within a State will only be permitted if the

owner agrees to refund all payments received under CRP since the close of the second available WRP signup period within the State;

(a) Contracts may only be converted under this section if:

(1) Such areas are determined suitable for the wetlands reserve program;

(2) Such owner or operator provides an easement in accordance with subpart C of this part covering such areas;

(3) There is a high probability, as determined by CCC, of successful restoration of such areas; and

(4) The restoration of such area otherwise meets the requirements of subpart C of this part.

(b) An owner or operator who has entered into a contract under part 704 of this title may, if approved by CCC, restore suitable acres to wetlands while under such contract without cost-share assistance under the CRP since water is an approved cover. The approved restoration shall become a part of the conservation plan for the contracted area.

[56 FR 15985, Apr. 19, 1991, as amended at 58 FR 4064, Jan. 13, 1993]

§ 1410.109 Obligations of participant.

All participants subject to a CRP contract must agree to:

(a) Carry out the terms and conditions of such CRP contract;

(b) Implement the conservation plan which is part of such contract in accordance with the schedule of dates included in such conservation plan unless CCC determines that the participant cannot fully implement the conservation plan for reasons beyond the participant's control;

(c) Establish temporary vegetative cover when required by the conservation plan or if, as determined by CCC, the permanent vegetative cover cannot be timely established;

(d) Reduce the aggregate total of crop acreage bases, allotments, and quotas for the contract period for each farm which contains land subject to such CRP contract by an amount based upon the ratio between the acres in the CRP contract and the total cropland acreage on such farm. Crop acreage bases reduced during the contract period shall be returned at the end of the contract period in the same amounts as

would apply had the land not been enrolled in the CRP unless CCC approves, pursuant to §1410.117, an extension of such protection;

(e) Not produce an agricultural commodity on highly erodible land, in a county which has not met or exceeded the acreage limitation under §1410.4, which was acquired on or after November 28, 1990 unless such land, as determined by CCC, has a history in the most recent five year period of producing an agricultural commodity other than forage crops;

(f) Comply with all requirements of part 12 of this title;

(g) Not allow grazing, harvesting, or other commercial use of any crop from the cropland subject to such contract except for those periods of time in accordance with instructions issued by CCC in response to drought or other similar emergency;

(h) Establish and maintain the required vegetative or water cover and the required practices on the land subject to such contract and take other actions that may be required by CCC to achieve the desired environmental benefits and to maintain the productive capability of the soil throughout the CRP contract period;

(i) Comply with noxious weed laws of the applicable State or local jurisdiction on such land;

(j) Control on land subject to such contract all weeds, insects, pests and other undesirable species to the extent necessary, taking into consideration the needs of water quality and wildlife, as determined by CCC; and

(k) Be jointly and severally responsible for compliance with such contract and the provisions of this subpart and for any refunds or payment adjustments which may be required for violations of any of the terms and conditions of the CRP contract and provisions of this subpart.

§ 1410.110 Obligations of the Commodity Credit Corporation.

CCC shall, subject to the availability of funds:

(a) Share the cost with participants of establishing eligible practices specified in the conservation plan at the levels and rates of cost-sharing deter-

mined in accordance with the provisions of this subpart;

(b) Pay to the participant for a period of years not in excess of the contract period an annual rental payment in such amounts as may be specified in the CRP contract; and

(c) Provide such technical assistance as may be necessary to assist the participant in carrying out the CRP contract; and

(d) Permit grazing of grassed waterways on CRP land where the grazing is incidental to the gleaning of crop residues on fields where the contracted land is located, such incidental grazing is limited to the 7-month period in which grazing of conservation use acreage is allowed, as determined by CCC, in a State under the Agricultural Act of 1949 (7 U.S.C. 1421 *et seq.*), or after the producer harvests the grain crop of the surrounding field. Further, CCC must provide prior approval of the incidental grazing of the CRP in exchange for an applicable reduction in the annual rental payment, as determined appropriate by the Deputy Administrator.

[56 FR 15985, Apr. 19, 1991, as amended at 58 FR 4064, Jan. 13, 1993]

§ 1410.111 Conservation plan.

(a) The applicant, in consultation with the NRCS and the local conservation district or another source as approved by the NRCS, shall develop the conservation plan for the land to be entered in CRP.

(b) The practices included in the conservation plan and agreed to by the participant must achieve the reduction in erosion necessary to maintain the productive capability of the soil, improvement in water quality, protection of a public well head or other environmental benefit as applicable.

(c) If applicable, a tree planting plan shall be developed and included in the conservation plan. Such tree planting plan may allow up to 3 years to complete plantings if 10 or more acres of hardwood trees are to be established.

(d) All conservation plans shall be subject to the approval of CCC.

[56 FR 15985, Apr. 19, 1991, as amended at 61 FR 43946, Aug. 27, 1996]

§ 1410.112 Eligible practices.

(a) Eligible practices are those practices specified in the conservation plan that meet all quantity and quality standards needed to:

(1) Establish permanent vegetative cover, including introduced or native species of grasses and legumes, forest trees, permanent wildlife habitat, field windbreaks, and shallow water areas for wildlife;

(2) Meet other environmental benefits, as applicable, for the contract period; and

(3) Accomplish other purposes of the program.

(b) Water cover is an eligible practice if approved by CCC for the enhancement of wildlife or otherwise, except that such water cover shall not include ponds for the purpose of watering livestock, irrigating crops, or raising fish for commercial purposes.

§ 1410.113 Signup.

Offers for contracts shall be submitted only during public signup periods as announced periodically by CCC, except that CCC may hold a continuous signup for land to be devoted to particular uses, as CCC deems desirable.

§ 1410.114 Acceptability of offers.

(a) Producers will submit bids for the amounts they are willing to accept to enroll their acreage in the CRP. The bids will, to the extent practicable, be evaluated on a competitive basis in which the bids selected will be those where the greatest environmental benefits are generated for the Federal dollars expended.

(b) In evaluating contract offers, different factors, as determined by CCC, may be established from time to time for priority purposes to accomplish the goals of the program. Such factors may include, but are not limited to:

- (1) Surface water quality;
- (2) ground water quality;
- (3) soil productivity;
- (4) conservation compliance considerations;
- (5) tree planting;
- (6) 319 area designations; and
- (7) conservation priority area designation for selection.

§ 1410.115 CRP contract.

(a) In order to enroll land in the CRP, the participant must enter into a contract with CCC.

(b) The CRP contract will be comprised of:

(1) The terms and conditions for participation in the CRP;

(2) The conservation plan; and

(3) Any other materials or agreements determined necessary by CCC.

(c)(1) In order to enter into a CRP contract, the applicant must submit an offer to participate at the local FSA office during the applicable signup period.

(2) An offer to enroll land in the CRP shall be irrevocable for such period as is determined and announced by CCC.

(3) The applicant shall be liable to CCC for liquidated damages if the applicant revokes an offer during the period in which the offer is irrevocable, except that such irrevocable period shall not be applicable for the first signup period under this subpart, and

CCC may waive payment of such liquidated damages if CCC determines that the assessment of such damages, in a particular case, is not in the best interest of CCC.

(d) The CRP contract must, within the dates established by CCC, be signed by:

(1) The applicant; and

(2) The owners of the cropland to be placed in the CRP, if applicable.

(e) The Deputy Administrator or designee is authorized to approve CRP contracts on behalf of CCC.

§ 1410.116 Contract modifications.

(a) By mutual agreement between CCC and the participant, a CRP contract may be modified in order to:

(1) Decrease acreage in the CRP;

(2) Permit the production of an agricultural commodity during a crop year on all or part of the land subject to the CRP contract;

(3) Facilitate the practical administration of the CRP; or

(4) Accomplish the goals and objectives of the CRP, as determined by the Deputy Administrator.

(5) Terminate contracts enrolled in CRP before January 1, 1995, which have

been in effect for at least 5 years. Contract acreage located within an average of 100 feet of a perennial stream or other permanent waterbody, on which a CRP easement is filed, that was enrolled under the wetland eligibility criteria established in signup periods 8 and 9, and contract acreage on which there exist the following practices, installed or developed as a result of participation in the CRP or as otherwise required by the NRCS local Field Office Technical Guide, are not eligible for termination prior to the expiration date of the contract as provided in this paragraph: grass waterways; filter strips; shallow water areas for wildlife; bottomland timber established on wetlands; field windbreaks; and, shelterbelts. In addition, for any land for which an early termination is sought, the land must have an EI of 15 or less. With respect to terminations under this paragraph:

(i) The termination shall become effective 60 days from the date the participant(s) submit notification to CCC of the participant's desire to terminate the contract;

(ii) Acreage terminated under this provision is eligible to be re-offered for CRP during future signup periods providing the acreage otherwise meets the eligibility criteria established for that signup; and,

(iii) Participants shall be required to meet conservation compliance requirements of 7 CFR part 12 to the extent applicable to other land.

(b) CCC may modify CRP contracts to add, delete, or substitute practices when:

(1) The installed practice failed to adequately provide for the desired environmental benefit through no fault of the participant; or

(2) The installed measure deteriorated because of conditions beyond the control of the participant; and

(3) Another practice will achieve at least the same level of environmental benefit.

[56 FR 15985, Apr. 19, 1991, as amended at 60 FR 22458, May 8, 1995; 61 FR 43946, Aug. 27, 1996]

§ 1410.117 Extended base protection.

(a) In the final year of the contract or renewable period, participants may,

subject to approval by CCC, request to extend the preservation of cropland base and allotment history for 5 years, without payment. Such approval may be given by CCC only if participants agree to continue for that period to abide by the terms and conditions which applied to the relevant contract relating to the conservation of the property for the term in which payments were to be made.

(b) Where such an extension is approved, no additional cost share, annual rental or bonus payment shall be made that would not have been made under the original contract for its original term.

(c) Haying and grazing of the acreage subject to such an extension may be permitted during the extension period, except during any consecutive 5-month period between April 1 and October 31 of any year as shall be established by the State committee. In the event of a natural disaster, however, CCC may permit unlimited haying and grazing of such acreage.

(d) In the event of a violation of any CRP contract extended under this section, CCC may reduce or terminate the amount of cropland base and allotment history otherwise preserved under the contract or under an extension of the contract.

§ 1410.118 Cost-share payments.

(a) Cost-share payments shall be made available upon a determination by CCC that an eligible practice, or an identifiable unit thereof, has been established in compliance with the appropriate standards and specifications.

(b) Except as otherwise provided for in this subpart, cost-share payments may be made under the CRP only for the establishment or installation of an eligible practice.

(c) Except as provided in paragraph (d) of this section, cost-share payments shall not be made to the same owner or operator on the same acreage for any eligible practices which have been previously established, and for which such owner or operator has received cost-share assistance from the Department or other Federal agency.

(d) Except as provided for under § 1410.107, cost-share payments may be

authorized for the replacement or restoration of practices for which cost-share assistance has been previously allowed under the CRP, but only if:

(1) Replacement or restoration of the practice is needed to achieve adequate erosion control, enhanced water quality, or increased protection of public wellheads; and

(2) The failure of the original practice was due to reasons beyond the control of the participant.

(e) The cost-share payment made to a participant shall not exceed the participant's actual contribution to the cost of establishing the practice and the amount of the cost-share may not be an amount which, when added to assistance from other sources, exceeds the cost of the practices.

(f) In the case of land devoted to hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract subject to this subpart or in the case of land converted to such use under § 1410.107, CCC shall pay up to 50 percent of appropriate costs, as determined by CCC, to the participant for maintaining such plantings, including the cost of replanting if such plantings are lost for reasons beyond the control of the participant, during not less than the 2-year nor more than the 4-year period commencing on the date of such plantings.

(g) CCC shall not make cost-share payments with respect to a CRP contract if any other Federal cost-share assistance has been, or is being, made with respect to the establishment of the required practice on land subject to such contract.

§ 1410.119 Levels and rates for cost-share payments.

(a) CCC may not pay more than 50 percent of the actual or average cost of establishing eligible practices specified in the conservation plan except that CCC shall allow cost-shares for maintenance costs to the extent required by § 1410.118(f) and CCC shall determine the period and amount of such cost-shares.

(b) The average cost of performing a practice shall be determined by CCC. Recommendations of the State and county Conservation Review Groups as provided for under § 701.2 (a) and (f) of

this title shall be considered in determining such cost. Such cost may be the average cost in a State, a county, or a part of a county or counties as determined by the Deputy Administrator.

§ 1410.120 Annual rental payments.

(a) Subject to the availability of funds, annual rental payments shall be made in such amount and in accordance with such time schedule as may be agreed upon and specified in the CRP contract.

(b) The annual rental payment shall be divided among the participants on a single contract in the manner agreed upon in such contract.

(c) The maximum amount of rental payments which a person may receive under the CRP for any fiscal year shall not exceed \$50,000. The regulations set forth at parts 1497 and 1498 of this chapter shall be applicable in making certain eligibility and "person" determinations as they apply to payment limitations under this part.

(d) In the case of a contract succession, annual rental payments shall be prorated between the predecessor and the successor participants based on the actual days of ownership of the property as reflected in applicable appropriately filed land records.

(e) CCC may reject any and all offers received from applicants who had previously entered into CRP contracts with CCC if the total annual rental payments due under such prior contracts (excluding contracts entered into in accordance with § 1410.123) plus the total annual rental payments called for in the offer exceed \$50,000.

§ 1410.121 Method of payment.

Except as provided in § 1410.122, payments made by CCC under this part may be made in cash, in kind, in commodity certificates, or in any combination of such methods of payment in accordance with part 1470 of this chapter, unless otherwise specified by CCC.

§ 1410.122 State enhancement program payments.

For contracts to which a State, political subdivision, or agency thereof has succeeded in connection with an approved conservation reserve enhancement program, payments shall be made

in the form of cash only. The provisions that limit the amount of payment per year a person may receive under this subpart shall not be applicable to payments received by such State, political subdivision, or agency thereof in connection with agreements entered into under such program carried out by such State, political subdivision, or agency thereof which has been approved by the Secretary.

§ 1410.123 Transfer of land.

(a)(1) If a new owner or operator purchases or obtains the right and interest in, or right to occupancy of, the land subject to a CRP contract, such new owner or operator, upon the approval of CCC, may become a participant to a new CRP contract with CCC with respect to such transferred land.

(2) With respect to the transferred land, if the new owner or operator becomes a successor to the existing CRP contract, the new owner or operator shall assume all obligations under the CRP contract of the previous participant;

(3) The following provisions shall be applicable if the new owner or operator becomes a successor to a CRP contract with CCC:

(i) Cost-share payments shall be made to the participant, past or present who established the practice; and

(ii) Annual rental payments to be paid during the fiscal year when the land was transferred shall be divided between the new participant and the previous participant in the manner specified in § 1410.120.

(b) If a participant transfers all or part of the right and interest in, or right to occupancy of, land subject to a CRP contract and the new owner or operator does not become a successor to such contract within 60 days of such transfer, such contract shall be terminated with respect to the affected portion of such land and the original participant:

(1) Must forfeit all rights to any future payments with respect to such acreage; and

(2) Unless, as approved by CCC where the new owner is a Federal agency that agrees to abide by the terms and conditions of the terminated contract, must

refund all or part of the payments made with respect to such contract plus interest thereon, as determined by CCC, and shall pay liquidated damages as provided for in such contract. CCC, in its discretion, may permit the amount to be repaid to be reduced to the extent that such a reduction will not impair program operations and is deemed to be in the public interest. Provided however, no refund of rental payments and cost sharing payments shall be required from a participant who is otherwise in full compliance with the CRP contract when the land is purchased by or for the United States Fish and Wildlife Service.

(c) Federal agencies in acquiring property, by foreclosure or otherwise, that contains CRP contract acreage, cannot be a party to the contract by succession. However, through an addendum to the CRP contract, if the current operator of the property is one of the participants on such contract, such operator may, as permitted by CCC, continue to receive payments provided for in such contract so long as:

(1) The property is maintained in accordance with the terms of the contract;

(2) Such operator continues to be the operator of the property; and

(3) Ownership of the property remains with such federal agency.

§ 1410.124 Violations.

(a) (1) If a participant fails to carry out the terms and conditions of a CRP contract, CCC may terminate the CRP contract.

(2) If the CRP contract is terminated by CCC in accordance with this subsection:

(i) The participant shall forfeit all rights to further payments under such contract and refund all payments previously received together with interest; and

(ii) Pay liquidated damages to CCC in such amount as specified in such contract.

(b) If CCC determines such failure does not warrant termination of such contract, CCC may grant relief as CCC deems appropriate.

(c) CCC may also terminate a CRP contract if the participant agrees to such termination and CCC determines

§ 1410.125

such termination to be in the public interest.

(d) CCC may reduce a demand for a refund under this section to the extent CCC determines that such relief would be appropriate and will not deter the accomplishment of the goals of the program.

§ 1410.125 Executed CRP contract not in conformity with regulations.

If, after a CRP contract is approved by CCC, it is discovered that such CRP contract is not in conformity with the provisions of this part, a modification of such contract may be made by mutual agreement. If the parties to such contract cannot reach agreement with respect to such modification, the CRP contract shall be terminated and all payments paid or payable under such contract shall be forfeited or refunded to CCC, except as may otherwise be allowed by CCC.

PART 1412—PRODUCTION FLEXIBILITY CONTRACTS FOR WHEAT, FEED GRAINS, RICE, AND UPLAND COTTON

Subpart A—General Provisions

Sec.

- 1412.101 Applicability.
- 1412.102 Administration.
- 1412.103 Definitions.
- 1412.104 Performance based upon advice or action of county or state committee.
- 1412.105 Appeals.

Subpart B—Production Flexibility Contract Terms and Enrollment Provisions

- 1412.201 Production flexibility contract.
- 1412.202 Eligible producers.
- 1412.203 Notification of eligible contract acreage.
- 1412.204 Reconstitutions.
- 1412.205 Reducing contract acreage.
- 1412.206 Planting flexibility.
- 1412.207 Succession-in-interest to a production flexibility contract.

Subpart C—Financial Considerations Including Sharing Production Flexibility Payments

- 1412.301 Limitation of Production Flexibility Contract Payments.
- 1412.302 Contract Payment Provisions.
- 1412.303 Sharing of Contract Payments.
- 1412.304 Provisions Relating to Tenants and Sharecroppers.

7 CFR Ch. XIV (1–1–97 Edition)

Subpart D—Contract Violations and Diminution of Payments

- 1412.401 Contract Violations.
- 1412.402 Violations of Highly Erodible Land and Wetland Conservation Provisions.
- 1412.403 Violations Regarding Controlled Substances.
- 1412.404 Contract Liability.
- 1412.405 Misrepresentation and Scheme or Device.
- 1412.406 Offsets and Assignments.
- 1412.407 Certification.

Subpart E—Production Flexibility and Conservation Reserve Programs

- 1412.501 Timing for Enrollment and Termination of Production Flexibility of Contracts.

AUTHORITY: 7 U.S.C. 7201 et seq.; and 15 U.S.C. 714b and 714c.

SOURCE: 61 FR 37575, July 18, 1996, unless otherwise noted.

Subpart A—General Provisions

§ 1412.101 Applicability.

The Federal Agriculture Improvement and Reform Act of 1996 (1996 Act) provides producers on farms with 1996 wheat, corn, barley, grain sorghum, oats, upland cotton and rice crop acreage bases the opportunity to enter into Production Flexibility Contracts with the Commodity Credit Corporation (CCC) for the years 1996 through 2002. Producers who participate in the program must fully comply with the terms of the production flexibility contracts and this part, and in return will receive production flexibility payments.

§ 1412.102 Administration.

(a) The program is administered under the general supervision of the Executive Vice-President, CCC, and shall be carried out by State and county Farm Service Agency (FSA) committees (herein called State and county committees).

(b) State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations of this part.

(c) The State committee shall take any action required by the regulations of this part that the county committee has not taken. The State committee shall also: